

# House File 2425 - Introduced

HOUSE FILE 2425  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 612)

## A BILL FOR

1 An Act relating to civil actions, procedures, and remedies and  
2 including applicability provisions.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION.   **611.24 Costs — attorney fees.**

2     1. On the court's granting or denial, in whole or in part,  
3 of a motion to dismiss a cause of action that has no basis  
4 in law or fact, the court shall award costs and reasonable  
5 attorney fees to the prevailing party in the civil action.

6     2. This section does not apply to actions by or against the  
7 state, other governmental entities, or public officials acting  
8 in their official capacity or under color of law.

9     Sec. 2. NEW SECTION.   **613.3 Designation of third parties —**  
10 **timely disclosure.**

11     A defendant is prohibited from designating a person as a  
12 responsible third party with respect to a plaintiff's cause of  
13 action after the applicable limitations period on the cause  
14 of action has expired if the defendant has failed to timely  
15 disclose that the person may be designated as a responsible  
16 third party pursuant to rules of civil procedure 1.231 through  
17 1.237.

18     Sec. 3. NEW SECTION.   **624.12A Interlocutory appeal of order**  
19 **involving controlling question of law.**

20     1. On a party's motion or on its own initiative, the  
21 district court in a civil action, by written order, may permit  
22 an appeal from an order that is not otherwise subject to appeal  
23 if all of the following are met:

24     a. The order to be appealed involves a controlling question  
25 of law upon which there is a substantial ground for difference  
26 of opinion.

27     b. An immediate appeal from the order will materially  
28 advance the ultimate termination of the litigation.

29     2. An appeal under this section does not stay proceedings in  
30 the district court unless either of the following is met:

31     a. The parties agree to a stay.

32     b. The district court or appellate court orders a stay  
33 of the proceedings pending appeal, regardless of whether the  
34 parties agree to the stay.

35     3. The supreme court may accept an appeal permitted by

1 this section if the appealing party files an application for  
2 interlocutory appeal, explaining why an appeal is warranted  
3 pursuant to subsection 1, within fifteen days after the date  
4 the district court signs the order permitting the appeal. The  
5 time period applicable to the filing of the notice of appeal  
6 commences when the supreme court enters the order accepting the  
7 appeal.

8 4. The supreme court shall prescribe rules providing for the  
9 expediting of appeals pursuant to this section.

10 5. This section does not apply to an interlocutory appeal in  
11 termination of parental rights or child in need of assistance  
12 proceedings pursuant to chapter 232.

13 Sec. 4. NEW SECTION. 677.15 Offer requirements.

14 1. An offer to confess judgment made pursuant to this  
15 chapter shall meet all of the following requirements:

16 a. Be in writing.

17 b. State that the offer is made pursuant to this chapter.

18 c. State the terms by which the claims may be settled.

19 d. State a deadline by which the offer must be accepted.

20 e. Be served on all parties to whom the settlement offer is  
21 made.

22 2. A party is not required to file with the court an offer  
23 to confess made pursuant to this chapter.

24 3. A party that makes an offer to confess that does not  
25 comply with the requirements of this section shall not be  
26 entitled to recover any costs pursuant to section 677.16.

27 Sec. 5. NEW SECTION. 677.16 Costs — limitation.

28 1. For purposes of this chapter, "costs" means moneys  
29 actually spent and obligations actually incurred that are  
30 directly related to an action in which an offer is made, and  
31 includes all of the following:

32 a. Court costs.

33 b. Reasonable deposition costs.

34 c. Reasonable fees for not more than two testifying expert  
35 witnesses.

1     *d.* Reasonable attorney fees.

2     2. Costs that may be awarded under this chapter shall not  
3 be greater than the total amount that the plaintiff recovers  
4 or would recover before adding an award of costs in favor of  
5 the plaintiff or subtracting as an offset an award of costs in  
6 favor of the defendant.

7     Sec. 6. REPEAL. Sections 677.2, 677.5, 677.10, and 677.13,  
8 Code 2011, are repealed.

9     Sec. 7. MOTION TO DISMISS — FAILURE TO STATE CLAIM —  
10 RULES. The supreme court shall prescribe rules to provide for  
11 the dismissal of a civil action that has no basis in law or  
12 fact on motion and without evidence. The rules shall provide  
13 that the motion to dismiss shall be granted or denied within  
14 forty-five days of the filing of the motion to dismiss. Such  
15 rules shall not apply to termination of parental rights or  
16 child in need of assistance proceedings pursuant to chapter  
17 232.

18     Sec. 8. CIVIL JUSTICE REFORM TASK FORCE — SUPREME COURT  
19 REPORT. The supreme court, which established the civil justice  
20 reform task force on December 18, 2009, to develop a plan for a  
21 multi-option civil justice system, and to include proposals for  
22 new court processes and improvements in current processes in  
23 order to foster prompt, affordable, and high-quality resolution  
24 of non-domestic civil cases, shall cause the task force to  
25 submit a final report detailing its findings, conclusions, and  
26 recommendations to the general assembly no later than July 1,  
27 2012.

28     Sec. 9. APPLICABILITY. This Act applies to causes of  
29 actions accrued on or after the effective date of this Act.

30                                   EXPLANATION

31     This bill relates to civil procedures, actions, and remedies  
32 and includes an applicability provision.

33     MOTION TO DISMISS — FAILURE TO STATE A CLAIM.

34     RULES. The bill provides that the supreme court shall  
35 prescribe rules to provide for the dismissal of a civil

1 action that has no basis in law or fact on motion and without  
2 evidence. The rules shall provide that the motion to dismiss  
3 shall be granted or denied within 45 days of the filing of the  
4 motion to dismiss. Such rules shall not apply to termination  
5 of parental rights or child in need of assistance proceedings  
6 pursuant to Code chapter 232.

7 COSTS AND ATTORNEY FEES. The bill provides that upon the  
8 court's granting or denial, in whole or in part, of a motion to  
9 dismiss a cause of action that has no basis in law or in fact,  
10 the court shall award costs and reasonable attorney fees to the  
11 prevailing party in a civil action. The bill does not apply to  
12 actions by or against the state, other governmental entities,  
13 or public officials acting in their official capacity or under  
14 color of law.

15 DESIGNATION OF THIRD PARTIES IN CIVIL ACTION — TIMELY  
16 DISCLOSURE. The bill prohibits a defendant from designating  
17 a person as a responsible third party with respect to a  
18 plaintiff's cause of action after the applicable limitations  
19 period on the cause of action has expired if the defendant has  
20 failed to timely disclose that the person may be designated as  
21 a responsible third party pursuant to rules of civil procedure  
22 1.231 through 1.237.

23 INTERLOCUTORY APPEAL OF ORDER INVOLVING CONTROLLING QUESTION  
24 OF LAW. The bill provides that, on a party's motion or on  
25 its own initiative, the district court in a civil action, by  
26 written order, may permit an appeal from an order that is  
27 not otherwise subject to appeal if the order to be appealed  
28 involves a controlling question of law upon which there is a  
29 substantial ground for difference of opinion and an immediate  
30 appeal from the order will materially advance the ultimate  
31 termination of the litigation. Such an appeal does not stay  
32 proceedings in the district court unless either the parties  
33 agree to a stay or the district court or appellate court orders  
34 a stay of the proceedings, regardless of whether the parties  
35 agree to a stay. The appealing party must file an application

1 for interlocutory appeal explaining why an appeal is warranted  
2 within 15 days after the date the district court signs the  
3 order permitting the appeal. The time period applicable to  
4 the filing of the notice of appeal starts when the supreme  
5 court enters the order accepting the appeal. The bill provides  
6 that the supreme court shall prescribe rules which provide  
7 for the expediting of appeals. The bill does not apply to an  
8 interlocutory appeal in termination of parental rights or child  
9 in need of assistance proceedings pursuant to Code chapter 232.

10 SETTLEMENT OFFERS.

11 REQUIREMENTS. The bill provides that an offer to confess  
12 judgment made pursuant to Code chapter 677 (offer to confess  
13 judgment) shall be in writing, state that the offer is made  
14 pursuant to Code chapter 677, state the terms by which the  
15 claims may be settled, state a deadline by which the offer  
16 must be accepted, and be served on all parties to whom the  
17 settlement offer is made. A party is not required to file with  
18 the court an offer to confess made pursuant to the bill. A  
19 party that makes an offer to confess that does not comply with  
20 the requirements of the bill is not be entitled to recover any  
21 costs.

22 COSTS. The bill defines "costs" to mean money actually spent  
23 and obligations actually incurred that are directly related to  
24 an action in which an offer is made, and includes court costs,  
25 reasonable deposition costs, reasonable fees for not more  
26 than two testifying expert witnesses, and reasonable attorney  
27 fees. Costs that may be awarded shall not be greater than  
28 the total amount that the plaintiff recovers or would recover  
29 before adding an award of costs in favor of the plaintiff or  
30 subtracting as an offset an award of costs in favor of the  
31 defendant. The bill makes conforming repeals to Code sections  
32 677.2, 677.5, 677.10, and 677.13 relating to costs awarded for  
33 settlements based upon the time the settlement offer is made  
34 and accepted in the civil action.

35 CIVIL JUSTICE REFORM TASK FORCE — REPORT. The supreme

1 court, which established the civil justice reform task force  
2 on December 18, 2009, to develop a plan for a multi-option  
3 civil justice system, and to include proposals for new court  
4 processes and improvements, shall cause the task force to  
5 submit a final report detailing its findings, conclusions, and  
6 recommendations to the general assembly no later than July 1,  
7 2012.

8     APPLICABILITY. The bill applies to causes of actions  
9 accrued on or after the effective date of the bill.